



**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 97**

**[EPA-HQ-OAR-2015-0500; FRL-9953-30-OAR]**

**Availability of Data on Allocations of Cross-State Air Pollution Rule Allowances to Existing Electricity Generating Units**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule; notice of data availability (NODA).

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**SUMMARY:** Under the Cross-State Air Pollution Rule (CSAPR) trading program regulations, the EPA allocates emission allowances to existing electricity generating units (EGUs) as provided in a notice of data availability (NODA). In the CSAPR Update promulgated earlier this year, the EPA finalized default allocations of CSAPR NO<sub>x</sub> Ozone Season Group 2 allowances for the control periods in 2017 and subsequent years to existing EGUs in 22 eastern states for which the EPA finalized Federal Implementation Plans (FIPs) – Alabama, Arkansas, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Mississippi, Missouri, New Jersey, New York, Ohio, Oklahoma, Pennsylvania, Tennessee, Texas, Virginia, West Virginia, and Wisconsin. Through this NODA, the EPA is providing notice of the availability of data on these allowance allocations to existing units, as well as the data upon which the allocations are based.

**DATES:** [Insert date of publication in the Federal Register].

**FOR FURTHER INFORMATION CONTACT:** Questions concerning this notice should be addressed to Michael Cohen, at (202) 343-9497 or [cohen.michael@epa.gov](mailto:cohen.michael@epa.gov); or Robert Miller, at (202) 343-

9077 or miller.robertl@epa.gov. The mailing address for each of these individuals is U.S. Environmental Protection Agency, Clean Air Markets Division, MC 6204M, 1200 Pennsylvania Avenue NW, Washington, DC 20460.

**SUPPLEMENTARY INFORMATION:**

The CSAPR allowance trading programs require affected EGUs to hold emission allowances sufficient to cover their emissions of nitrogen oxides (NO<sub>x</sub>) and/or sulfur dioxide in each control period. In the CSAPR Update for the 2008 ozone National Ambient Air Quality Standards (NAAQS), the EPA established new emissions budgets for ozone season NO<sub>x</sub> emissions in 2017 and subsequent years for 22 eastern states and promulgated FIP provisions requiring affected EGUs in those states to participate in the CSAPR NO<sub>x</sub> Ozone Season Group 2 Trading Program.<sup>1</sup> Beginning with the 2018 control period, each covered state generally has the option to determine how the CSAPR NO<sub>x</sub> Ozone Season Group 2 allowances in its state emissions budget should be allocated among the state's EGUs through a State Implementation Plan (SIP) revision.<sup>2</sup> However, for the 2017 control period, and by default for subsequent control periods in situations where a state has not provided the EPA with the state's own allocations pursuant to an approved SIP revision, the allocations are made by the EPA.

In the case of units that commenced commercial operations before January 1, 2015, termed "existing" units for purposes of this trading program, the EPA determined default allocations for all control periods in the CSAPR Update rulemaking, according to a methodology

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<sup>1</sup> See Cross-State Air Pollution Rule Update for the 2008 Ozone NAAQS (September 7, 2016), available at <https://www.epa.gov/airmarkets/final-cross-state-air-pollution-rule-update>.

<sup>2</sup> See 40 CFR 52.38 and 52.39.

finalized in the rulemaking but not included in the regulatory text.<sup>3</sup> Through this NODA, the EPA is providing notice of the availability of unit-level default allocations of CSAPR NO<sub>x</sub> Ozone Season Group 2 allowances for EGUs that commenced commercial operation before January 1, 2015, as required by the CSAPR regulations.<sup>4</sup> The data are contained in an Excel spreadsheet titled “Unit-Level Allocations and Underlying Data for the CSAPR Update for the 2008 Ozone NAAQS” that is included in the docket for the CSAPR Update final rule and has been posted on the EPA’s website at <https://www.epa.gov/airmarkets/final-cross-state-air-pollution-rule-update>. The spreadsheet contains the default allocations of allowances for each control period starting with 2017. For EGUs in all covered states except Arkansas, the unit-level allocations in the spreadsheet are the same for each year. For EGUs in Arkansas, the unit-level allocations for many EGUs are higher for the 2017 control period because Arkansas’ 2017 ozone season NO<sub>x</sub> emissions budget is higher than its emissions budget for the control period in 2018 and subsequent years. The spreadsheet also contains the data used to compute the allocations and describes how the computations are performed. The EPA is not requesting comment on the allocations, underlying data, or allocation methodology.

The EPA notes that an allocation or lack of allocation of emission allowances to a given EGU does not constitute a determination that CSAPR does or does not apply to the EGU.<sup>5</sup> The EPA also notes that allocations are subject to potential correction under the rule.<sup>6</sup>

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<sup>3</sup> See CSAPR Allowance Allocations Final Rule TSD, available at <https://www.epa.gov/airmarkets/final-cross-state-air-pollution-rule-update>.

<sup>4</sup> See 40 CFR 97.811(a)(1). The approach of allocating emission allowances to existing EGUs as provided in a NODA was established in the original CSAPR and was unchanged in the CSAPR Update. See, e.g., 40 CFR 97.511(a)(1).

<sup>5</sup> See 40 CFR 97.811(a)(1).

<sup>6</sup> See 40 CFR 97.811(c).

In accordance with the allowance recordation deadlines set forth in the regulations, the EPA will record allocations of CSAPR NO<sub>x</sub> Ozone Season Group 2 allowances to existing units for the 2017 control period by January 3, 2017 (the first business day after January 1, 2017).<sup>7</sup> The EPA will also record allocations for the 2018 control period by that same date except in instances where a state has provided the EPA with timely notice of the state's intent to submit a SIP revision with state-determined allowance allocations replacing the EPA's default allocations for the 2018 control period.<sup>8</sup>

For units commencing commercial operation on or after January 1, 2015, termed "new" units for purposes of the CSAPR NO<sub>x</sub> Ozone Season Group 2 Trading Program, the EPA's default allocations for each control period are annually determined during and after the control period based on current and prior year emission data, using a methodology set out in the regulatory text.<sup>9</sup>

Dated: September 22, 2016.

Reid P. Harvey,

Director, Clean Air Markets Division.

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<sup>7</sup> See 40 CFR 97.821(a).

<sup>8</sup> See 40 CFR 52.38(b)(7) and 97.821(b).

<sup>9</sup> See 40 CFR 97.812.

